

521J.2 Certificate of authority.

1. If permitted by its organizational document, a captive company may apply to the commissioner for a certificate of authority to provide property insurance, casualty insurance, life insurance, disability income insurance, surety insurance, marine insurance, health insurance, or a group health plan, with the following exceptions:

a. A pure captive company shall only insure risks of the company's parent and affiliated companies, and of the company's controlled unaffiliated business entities.

b. An industrial insured captive company shall only insure risks of the industrial insured company, comprised of the industrial insured group and the industrial insured group's affiliated companies, and the controlled unaffiliated business of an industrial insured group or the industrial insured group's affiliated companies.

c. A special purpose captive company shall not provide insurance or reinsurance for risks unless approved by the commissioner.

d. A captive company or a branch captive company shall not do any of the following:

(1) Provide personal lines of insurance, including but not limited to motor vehicle insurance, homeowner's insurance, or any component of motor vehicle insurance or homeowner's insurance on a direct basis.

(2) Accept or cede reinsurance except as permitted by the commissioner by rule.

(3) Provide health insurance coverage or a group health plan unless the captive company or the branch captive company provides the health insurance coverage or the group health plan only for the parent company and the parent company's affiliated companies.

(4) Write workers' compensation insurance on a direct basis.

(5) Write life insurance on a direct basis.

e. A protected cell captive company shall not insure any risks other than those of the protected cell captive company's participants.

2. A captive company shall not write any insurance business unless the captive company complies with all of the following:

a. The captive company obtains a certificate of authority from the commissioner prior to writing any insurance business.

b. The captive company's board of directors, board of managing members, or a reciprocal insurer's subscribers' advisory committee, holds at least one annual meeting in the state.

c. The captive company maintains its principal place of business in the state.

d. The captive company designates a registered agent to accept service of process, files the name and contact information and any subsequent changes regarding the registered agent with the commissioner, and agrees that if the registered agent cannot be found with reasonable diligence, the commissioner may act as an agent of the captive company with respect to any action or proceeding and may be served pursuant to [section 505.30](#).

3. a. Prior to receiving a certificate of authority, a captive company shall do all of the following:

(1) File with the commissioner all of the following:

(a) A certified copy of the business entity's organizational document.

(b) A statement under oath of an officer of the business entity showing the business entity's financial condition.

(c) Any other statement or document required by the commissioner as established by rule.

(2) Submit a description of coverages, deductibles, coverage limits, rates, and any additional information requested by the commissioner to the commissioner for approval.

(3) Provide a statement to the commissioner that describes all of the following:

(a) The character, reputation, and financial standing of the organizers of the business entity.

(b) The character, reputation, financial responsibility, insurance experience, and business qualifications of all officers, directors, and managing members of the business entity.

(4) Provide any other information required by the commissioner as established by rule.

b. If there is a subsequent material change in the information provided to the commissioner under paragraph "a", the captive company shall submit appropriate supporting documentation to the commissioner for approval. The captive company shall not offer any

additional lines of insurance until on or after the date on which the commissioner approves the supporting documentation. The captive company shall inform the commissioner of any change in rates within thirty calendar days of the captive company's adoption of a change in rate.

c. In addition to the information required under paragraphs "a" and "b", each applicant captive company shall file with the commissioner evidence of all of the following:

(1) The amount and liquidity of the captive company's assets relative to the risks to be assumed by the captive company.

(2) The adequacy of the expertise, experience, and character of the persons who will manage the captive company.

(3) The overall soundness of the captive company's plan of operation.

(4) The adequacy of the loss prevention program of the captive company's parent, members, or industrial insureds, as applicable.

(5) Any other factors deemed relevant by the commissioner to ascertain if the proposed captive company will be able to meet the company's policy obligations.

d. In addition to the information required under paragraph "a", each applicant that is a protected cell captive company shall file with the commissioner all of the following:

(1) A business plan that demonstrates, at a level of detail deemed sufficient by the commissioner, how the applicant will account for the loss and expense experience of each protected cell, and how the applicant will report the loss and expense experience of each protected cell to the commissioner.

(2) A statement that acknowledges that all financial records of the protected cell captive company, including records pertaining to any protected cells, shall be made available upon request for inspection or examination by the commissioner or the commissioner's designated agent.

(3) A copy of each participant contract.

(4) Evidence that expenses will be allocated to each protected cell in a fair and equitable manner.

e. In addition to the requirements of paragraph "a", a captive company formed as a reciprocal insurer shall file with the commissioner a certified copy of the power of attorney of the reciprocal insurer's attorney-in-fact, a certified copy of the reciprocal insurer's subscribers' agreement, a statement under oath of the reciprocal insurer's attorney-in-fact that shows the reciprocal insurer's financial condition, and any other statements or documents required by the commissioner as established by rule.

f. All documents and information submitted pursuant to [this subsection](#) shall be confidential and shall not be made public without the advance written consent of the submitting company, with the following exceptions:

(1) The documents and information shall be discoverable by a party in a civil action or in a contested case to which the captive company that submitted the information is a party upon a showing by the party seeking to discover the information that the information sought is relevant to, and necessary for, the furtherance of the action or case; the information sought is unavailable from other nonconfidential sources; and that a subpoena issued by a judicial or an administrative officer has been submitted to the commissioner.

(2) The commissioner may, in the commissioner's discretion, disclose the documents and information to a public official having jurisdiction over the regulation of insurance in another state, or to a public official of the federal government, provided that the public official agrees in writing to maintain the confidentiality of the information, and that the laws of the state in which the public official serves require that the information remain confidential.

4. a. Each captive company, each individual series of members of a limited liability company, and each protected cell shall pay a nonrefundable fee to the commissioner of two hundred dollars for the examination, investigation, and processing of its application for a certificate of authority. The commissioner shall be authorized to retain legal, financial, and examination services from outside experts as necessary for review of the application, the reasonable cost of which may be charged to the applicant.

b. Each captive insurance company, each individual series of members of a limited liability

company, and each protected cell shall pay an initial registration fee, and an annual renewal registration fee, of three hundred dollars.

5. If the commissioner is satisfied with the documents and statements that an applicant captive company has filed in compliance with [this chapter](#), and the applicable provisions of [Title XIII, subtitle 1](#), the commissioner may grant a certificate of authority to the captive company that permits the company to do the business of insurance in this state. The certificate of authority must be renewed annually and may be renewed if the applicant is in compliance with [this chapter](#).

[2023 Acts, ch 107, §5](#)

Referred to in [§432.1A, 521J.22](#)

NEW section